



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

EPA-R05-RCRA-2012-0377; **FRL-9739-6]**

INDIANA: Final Authorization of State Hazardous Waste Management Program Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Indiana has applied to EPA for Final Authorization of the changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA has reviewed Indiana's application with regards to federal requirements, and is proposing to authorize the state's changes.

DATES: Comments must be received on or before *[insert date 30 days after the date of publication]*.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R05-RCRA-2012-0377 by one of the following methods:

http://www.regulations.gov: Follow the on-line instructions for submitting comments.

E-mail: westefer.gary@epa.gov.

Mail: Gary Westefer, Indiana Regulatory Specialist, LR-8J, U.S. EPA, Region 5,
77 West Jackson Boulevard, Chicago, Illinois 60604.

Instructions: Direct your comments to Docket ID Number EPA-R05-RCRA-2012-0377. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information

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Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some of the information is not publicly available; *e.g.*, CBI or other information for which disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy. You may view and copy Indiana’s application from 9:00 a.m. to 4:00 p.m. at the following addresses: U.S. EPA Region 5, LR-8J, 77 West Jackson Boulevard, Chicago, Illinois, contact: Gary

Westefer (312) 886-7450; or Indiana Department of Environmental Management, 100 North Senate, Indianapolis, Indiana, contact: Steve Mojonnier (317) 233-1655.

FOR FURTHER INFORMATION CONTACT: Gary Westefer, Indiana Regulatory Specialist, U.S. EPA Region 5, LR-8J, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-7450, e-mail *westefer.gary@epa.gov*.

SUPPLEMENTARY INFORMATION:

A. Why Are Revisions to State Programs Necessary?

States which have received final authorization from EPA under RCRA section 3006(b), 42 U.S.C. 6926(b), must maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the federal program. As the federal program changes, states must change their programs and request EPA to authorize the changes. Changes to state programs may be necessary when federal or state statutory or regulatory authority is modified or when certain other changes occur. Most commonly, states must change their programs because of changes to EPA's regulations in 40 Code of Federal Regulations (CFR) parts 124, 260 through 266, 268, 270, 273 and 279.

B. What Decisions Have We Made in This Rule?

We have made a tentative decision that Indiana's application to revise its authorized program meets all of the statutory and regulatory requirements established by RCRA. Therefore, we propose to grant Indiana final authorization to operate its hazardous waste program with the changes described in the authorization application. Indiana will have responsibility for

permitting treatment, storage, and disposal facilities (TSDFs) within its borders (except in Indian Country) and for carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of the Hazardous and Solid Waste Amendments of 1984 (HSWA). New federal requirements and prohibitions imposed by federal regulations that EPA promulgates under the authority of HSWA take effect in authorized states before they are authorized for the requirements. Thus, EPA will implement those requirements and prohibitions in Indiana, including issuing permits, until the state is granted authorization to do so.

C. What Is the Effect of This Authorization Decision?

The effect of this tentative decision, once finalized, is that a facility in Indiana subject to RCRA would have to comply with the authorized state requirements instead of the equivalent federal requirements in order to comply with RCRA. Indiana has enforcement responsibilities under its state hazardous waste program for RCRA violations, but EPA retains its authority under RCRA sections 3007, 3008, 3013, and 7003, which include among others, authority to:

1. do inspections, and require monitoring, tests, analyses or reports;
2. enforce RCRA requirements and suspend or revoke permits; and
3. take enforcement actions regardless of whether the state has taken its own actions.

This action will not impose additional requirements on the regulated community because the regulations for which Indiana will be authorized are already effective, and will not be changed by EPA's final action.

D. What Happens if EPA Receives Adverse Comments On This Action?

If EPA receives adverse comments on this authorization, we will address all public comments in a later Federal Register. You may not have another opportunity to comment. If you want to comment on this authorization, you must do so at this time.

E. What Has Indiana Previously Been Authorized for?

Indiana initially received Final Authorization on January 31, 1986, effective January 31, 1986 (51 FR 3955) to implement the RCRA hazardous waste management program. We granted authorization for changes to their program on October 31, 1986, effective December 31, 1986 (51 FR 39752); January 5, 1988, effective January 19, 1988 (53 FR 128); July 13, 1989, effective September 11, 1989 (54 FR 29557); July 23, 1991, effective September 23, 1991 (56 FR 33717); July 24, 1991, effective September 23, 1991 (56 FR 33866); July 29, 1991, effective September 27, 1991 (56 FR 35831); July 30, 1991, effective September 30, 1991 (56 FR 36010); August 20, 1996, effective October 21, 1996 (61 FR 43018); September 1, 1999, effective November 30, 1999 (64 FR 47692); January 4, 2001 effective January 4, 2001 (66 FR 733); December 6, 2001 effective December 6, 2001 (66 FR 63331); October 29, 2004 (69 FR 63100) effective October 29, 2004; and November 23, 2005 (70 FR 70740) effective November 23, 2005.

F. What Changes Are We Proposing with Today's Action?

On March 5, 2007, May 1, 2009, and October 25, 2011, Indiana submitted final program revision applications, seeking authorization of their changes in accordance with 40 CFR 271.21. We have determined that Indiana's hazardous waste program revisions satisfy all of the requirements necessary to qualify for Final Authorization. We are now proposing to authorize, subject to receipt of written comments that oppose this action, Indiana's hazardous waste

program revision. We propose to grant Indiana Final Authorization for the following program changes:

Description of Federal Requirement (include checklist #, if relevant)	Federal Register date and page (and/or RCRA statutory authority)	Analogous State Authority
Burning of Hazardous Wastes in Boilers and Industrial Furnaces Checklist 85	February 21, 1991 56 FR 7134	329 IAC 3.1-1-7; 3.1-4-1; 3.1-6-1; 3.1-6-2(2); 3.1-9-1; 3.1-10-1; 3.1-10-2(13); 3.1-11-1; 3.1-11-2(2); 3.1-13-1; 3.1-13-2(15) Effective November 22, 1992
Burning of Hazardous Wastes in Boilers and Industrial Furnaces; Corrections and Technical Amendments I Checklist 94	July 17, 1991 56 FR 32688	329 IAC 3.1-6-1; 3.1-10-1; 3.1-11-1; 3.1-11-2(2); 3.1-13-1; 3.1-13-2(15) Effective November 22, 1992
Burning of Hazardous Wastes in Boilers and Industrial Furnaces; Technical Amendments II Checklist 96	August 27, 1991 56 FR 42504	329 IAC 3.1-6-1; 3.1-6-2(2); 3.1-10-1; 3.1-10-2(13); 3.1-11-1; 3.1-11-2(2) Effective November 22, 1992
Coke Ovens Administrative Stay Checklist 98	September 5, 1991 56 FR 43874	329 IAC 3.1-11-1 Effective November 22, 1992
Burning of Hazardous Wastes in Boilers and Industrial Furnaces; Technical Amendments III Checklist 111	August 25, 1992 57 FR 38558	329 IAC 3.1-4-1; 3.1-4-1(b); 3.1-5-2; 3.1-6-1; 3.1-6-2(2); 3.1-9-1; 3.1-9-2(1); 3.1-10-1; 3.1-10-2(1-3); 3.1-11-1 Effective August 17, 1996
Burning of Hazardous Wastes in Boilers and Industrial Furnaces; Technical Amendment IV Checklist 114	September 30, 1992 57 FR 44999	329 IAC 3.1-11-1 Effective August 17, 1996
Boilers and Industrial Furnaces; Changes for Consistency with New Air Regulations Checklist 125	July 20, 1993 58 FR 38816	329 IAC 3.1-1-7; 3.1-11-1 Effective August 17, 1996
Boilers and Industrial Furnaces; Administrative	November 9, 1993 58 FR 59598	329 IAC 3.1-11-1 Effective August 17, 1996

Stay and Interim Standards for Bevill Residues Checklist 127		
Hazardous Air Pollutant Standards; Technical Corrections Checklist 188.2	July 3, 2001 66 FR 42292	329 IAC 3.1-6-1; 3.1-9-1; 3.1-13-1 Effective February 13, 2004
Zinc Fertilizers Made From Recycled Hazardous Secondary Materials Checklist 200	July 24, 2002 67 FR 48393	329 IAC 3.1-6-1; 3.1-6-2(17); 3.1-11-1; 3.1-12-1 Effective May 13, 2005
Land Disposal Restrictions: National Treatment Variance to Designate New Treatment Subcategories for Radioactively Contaminated Cadmium, Mercury, and Silver Containing Batteries Checklist 201	October 7, 2002 67 FR 62617	329 IAC 3.1-12-1 Effective May 13, 2005
NESHAP: Standards for Hazardous Air Pollutants for Hazardous Waste Combustors- Corrections Checklist 202	December 19, 2002 67 FR 77687	329 IAC 3.1-13-1 Effective May 13, 2005
Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Recycled Used Oil Management Standards Checklist 203	July 30, 2003 68 FR 44659	329 IAC 3.1-6-2(16); 13-1-1; 13-1-2; 13-3-1; 13-3-(b)(2) Effective May 13, 2005
National Emission Standards for Hazardous Air Pollutants: Surface Coating of Automobiles and Light-Duty Trucks Checklist 205	April 26, 2004 69 FR 22601	329 IAC 3.1-9-1; 3.1-10-1 Effective September 5, 2006
Hazardous Waste – Nonwastewaters From Production of Dyes, Pigments, and Food, Drug	February 24, 2005 70 FR 9138	329 IAC 3.1-6-1; 3.1-6-2(17); 3.1-6-2(19),(20); 3.1-12-1 Effective September 5, 2006

and Cosmetic Colorants; Mass Loadings-Based Listing Checklist 206 as amended Checklist 206.1	June 16, 2005 70 FR 35032	
Hazardous Waste Management System; Modification of the Hazardous Waste Manifest System Checklist 207 as Amended Checklist 207.1	March 4, 2005 70 FR 10776 June 16, 2005 70 FR 35034	329 IAC 3.1-4-1; 3.1-4-1(b); 3.1-6-1; 3.1-7-1; 3.1-7-2(2); 3.1-7-2(7); 3.1-8-1; 3.1-8-2(1),(2); 3.1-9-1; 3.1-9-2(6); 3.1-9-2(8); 3.1-10-1; 3.1-10-2(8); 3.1-10-2(11) Effective September 5, 2006
Waste Management System; Testing and Monitoring Activities; Methods Innovation Rule and SW-846 Final Update IIIB Checklist 208 as amended Checklist 208.1	June 14, 2005 70 FR 34537 August 1, 2005 70 FR 44151	329 IAC 3.1-1-7; 3.1-5-2; 3.1-5-3; 3.1-6-1; 3.1-6-2(7); 3.1-9-1; 3.1-9-2(10); 3.1-10-1; 3.1-10-2(21); 3.1-11-1; 3.1-11-2(2); 3.1-12-2; 3.1-12-2(1)(D),(2)(D), (3); 3.1-13-1; 13-1-1; 13-1-2; 13-3-1; 13-3-1(b)(2); 13-6-5; 13-7-4; 13-8-4 Effective September 5, 2006
Hazardous Waste Management System; Modification of the Hazardous Waste Program; Mercury Containing Equipment Checklist 209	August 5, 2005 70 FR 45507	329 IAC 3.1-4-1; 3.1-4-1(b); 3.1-6-1; 3.1-9-1; 3.1-9-2(1); 3.1-10-1; 3.1-10-2 (1),(2),(3); 3.1-12-1; 3.1-12-2(4); 3.1-13-1; 3.1-16-1; 3.1-16-2(a)(3); 3.1-16-2(a)(7) Effective September 5, 2006
Standardized Permit for RCRA Hazardous Waste Management Facilities Checklist 210	September 8, 2005 70 FR 53420	329 IAC 3.1-1-7; 3.1-4-1; 3.1-4-1(b); 3.1-6-1; 3.1-11.5-1; 3.1-11.5-2(1-7); 3.1-13-1; 3.1-13-2(1-3); 3.1-13-2(5); 3.1-13-2(13); 3.1-13-3; 3.1-13-4; 3.1-13-5; 3.1-13-6; 3.1-13-7; 3.1-13-8; 3.1-13-9; 3.1-13-10; 3.1-13-11; 3.1-13-12; 3.1-13-13; 3.1-13-14; 1.3-13-15; 3.1-13-16; 3.1-13-17; 3.1-13-18; 3.1-13-19; 3.1-13-21; 3.1-15 Effective September 20, 2010
Revision of Wastewater Treatment Exemptions for Hazardous Waste Mixtures Checklist 211	October 4, 2005 70 FR 57769	329 IAC 3.1-6-1 Effective January 25, 2008
NESHAP: Final Standards for Hazardous Waste Combustors (Phase I Final	October 12, 2005 70 FR 59402	329 IAC 3.1-1-7; 3.1-9-1; 3.1-10-1; 3.1-11-1; 3.1-13-1; 3.1-13-2(5); 3.1-13-2(9-11); 3.1-13-3

Replacement Standards and Phase II) Checklist 212		Effective January 25, 2008
Burden Reduction Initiative Checklist 213	April 4, 2006 71 FR 16862	329 IAC 3.1-4-1; 3.1-4-1(b); 3.1-6-1; 3.1-9-1; 3.1-9-2(9); 3.1-9-2(13),(14),(15); 3.1-9-3(a),(b),(c); 3.1-10-1; 3.1-10-2(5),(6); 3.1-10-2(11), (12), (13); 3.1-10-2(15-21); 3.1-11-1; 3.1-11-2(2); 3.1-12-1; 3.1-12-2(6); 3.1-13-1; 3.1-13-2(7),(8); 3.1-15-8; 3.1-15-9; 3.1-15-10 Effective January 25, 2008
Corrections to Errors in the Code of Federal Regulations Checklist 214	July 14, 2006 71 FR 40254	329 IAC 3.1-4-1; 3.1-4-1(b); 3.1-5-3; 3.1-5-5; 3.1-6-1; 3.1-6-2(2); 3.1-6-2(4); 3.1-6-2(8),(9); 3.1-6-2(17-20); 3.1-7-1; 3.1-7-2(7); 3.1-7-2(9); 3.1-7-12; 3.1-7-16; 3.1-9-1; 3.1-9-2(1), (2); 3.1-9-2(9); 3.1-9-2(14); 3.1-9-2(16); 3.1-9-2(17); 3.1-9-2(21); 3.1-9-3(c); 3.1-10-1; 3.1-10-2(1), (2), (3); 3.1-10-2(5), (6); 3.1-10-2 (13); 3.1-10-2(14); 3.1-10-2(18-23); 3.1-11-1; 3.1-11-2 (2), (3); 3.1-11.5-2(6); 3.1-12-1; 3.1-12-2(1); 3.1-12-2(5); 3.1-12-2(7); 3.1-13-1; 3.1-13-2(1), (2), (3); 3.1-13-2(5); 3.1-13-2(7), (8); 3.1-13-3; 3.1-13-4; 3.1-13-5; 3.1-13-6; 3.1-13-7; 3.1-13-8; 3.1-13-9; 3.1-13-10; 3.1-13-11; 3.1-13-12; 3.1-13-13; 3.1-13-14; 3.1-13-15; 3.1-13-16; 3.1-13-17; 3.1-14-26; 3.1-14-27; 3.1-14-28; 3.1-14-29; 3.1-14-30; 3.1-14-31; 3.1-14-32; 3.1-14-33; 3.1-14-34; 3.1-14-35; 3.1-14-36; 3.1-14-37; 3.1-14-38; 3.1-14-39; 3.1-14-40; 3.1-15-1; 3.1-15-3; 3.1-15-4; 3.1-15-8; 3.1-15-9; 3.1-15-10; 3.1-16-1; 3.1-16-2(a)(1-4); 3.1-16-2(a)(6), (7), (8); 13-2; 13-1-1; 13-1-2; 13-3-1; 13-3-2; 13-6-4; 13-6-5; 13-6-6; 13-7-3; 13-7-6; 13-7-8; 13-7-10; 13-8-4; 13-8-5; 13-9-1 Effective September 20, 2010
Cathode Ray Tube Exclusion Checklist 215	July 28, 2006 71 FR 42928	329 IAC 3.1-4-1; 3.1-4-1(b); 3.1-6-1 Effective January 25, 2008

Exclusion of Oil Bearing Secondary Materials Processed in a Gasification System to Produce Synthesis Gas Checklist 216	January 2, 2008 73 FR 57	329 IAC 3.1-4-1; 3.1-4-1(b); 3.1-6-1 Effective October 11, 2009
NESHAP: Final Standards for Hazardous Waste Combustors (Phase I Final Replacement Standards and Phase II) Amendments Checklist 217	April 8, 2008 73 FR 18970	329 IAC 3.1-9-1; 3.1-11-1 Effective October 11, 2009
F019 Exemption for Wastewater Treatment Sludges from Auto Manufacturing Zinc Phosphating Processes Checklist 218	June 4, 2008 73 FR 31756	329 IAC 3.1-6-1 Effective October 11, 2009
Academic Laboratories Generator Standards Checklist 220	December 1, 2008 73 FR 72912	329 IAC 3.1-1-7; 3.1-6-1; 3.1-7-1 Effective September 26, 2010

G. Which Revised State Rules Are Different from the Federal Rules?

Indiana has excluded the non-delegable federal requirements at 40 CFR 268.5, 268.6, 268.42(b), 268.44, and 270.3. EPA will continue to implement those requirements. In 329 IAC 3.1-6-3 Indiana is more stringent in adding six hazardous wastes to the acute hazardous waste list that are not acute hazardous wastes in 40 CFR Part 261. In section 3.1-9-2, Indiana maintains more stringent levels for groundwater protection for several of the constituents listed in Table 1 of 40 CFR 264.94. There are no Broader in Scope or more stringent provisions in Indiana's rules analogous to this application.

H. Who Handles Permits After the Final Authorization Takes Effect?

Indiana will issue permits for all the provisions for which it is authorized and will administer the permits it issues. EPA will continue to administer any RCRA hazardous waste

permits or portions of permits which EPA issues prior to the effective date of the proposed authorization until they expire or are terminated. We will not issue any more new permits or new portions of permits for the provisions listed in the Table above after the effective date of the authorization. EPA will continue to implement and issue permits for HSWA requirements for which Indiana is not yet authorized.

I. How Does Today’s Action Affect Indian Country (18 U.S.C. 1151) in Indiana?

Indiana is not authorized to carry out its hazardous waste program in “Indian Country,” as defined in 18 U.S.C. 1151. Indian Country includes:

1. All lands within the exterior boundaries of Indian Reservations within or abutting the State of Indiana;
2. Any land held in trust by the U.S. for an Indian tribe; and
3. Any other land, whether on or off an Indian reservation that qualifies as Indian Country.

Therefore, this action has no effect on Indian Country. EPA retains the authority to implement and administer the RCRA program on these lands.

J. What Is Codification and Is EPA Codifying Indiana’s Hazardous Waste Program as Authorized in This Rule?

Codification is the process of placing the state’s statutes and regulations that comprise the state’s authorized hazardous waste program into the Code of Federal Regulations. We do this by referencing the authorized state rules in 40 CFR part 272. Indiana’s authorized rules, up to and including those revised January 4, 2001, have previously been codified through the

incorporation-by-reference effective December 24, 2001 (66 FR 53728, October 24, 2001). We reserve the amendment of 40 CFR part 272, subpart P for the codification of Indiana's program changes until a later date.

K. Statutory and Executive Order Reviews

This proposed rule only authorizes hazardous waste requirements pursuant to RCRA 3006 and imposes no requirements other than those imposed by state law (see Supplementary Information, Section A. Why are Revisions to State Programs Necessary?). Therefore, this rule complies with applicable executive orders and statutory provisions as follows:

1. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulations and Regulatory Review

The Office of Management and Budget has exempted this rule from its review under Executive Orders 12866 (58 FR 51735, October 4, 1993) and Executive Order 13563 (76 FR 3821 January 21, 2011).

2. Paperwork Reduction Act

This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

3. Regulatory Flexibility Act

This rule authorizes state requirements for the purpose of RCRA 3006 and imposes no additional requirements beyond those required by state law. Accordingly, I certify that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

4. Unfunded Mandates Reform Act

Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4).

5. Executive Order 13132: Federalism

Executive Order 13132 (64 FR 43255, August 10, 1999) does not apply to this rule because it will not have federalism implications (*i.e.*, substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government).

6. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175 (65 FR 67249, November 9, 2000) does not apply to this rule because it will not have tribal implications (*i.e.*, substantial direct effects on one or more Indian tribes, or on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes).

7. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

This rule is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant as defined in Executive Order 12866 and because the EPA does not have reason to believe the environmental health or safety risks addressed by this action present a disproportionate risk to children.

8. Executive Order 13211: Actions that Significantly Affect Energy Supply, Distribution, or Use

This rule is not subject to Executive Order 13211 (66 FR 28355, May 22, 2001), because it is not a significant regulatory action as defined in Executive Order 12866.

9. National Technology Transfer Advancement Act

EPA approves state programs as long as they meet criteria required by RCRA, so it would be inconsistent with applicable law for EPA, in its review of a state program, to require the use of any particular voluntary consensus standard in place of another standard that meets the requirements of RCRA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply to this rule.

10. Executive Order 12988

As required by Section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct.

11. Executive Order 12630: Evaluation of Risk and Avoidance of Unanticipated Takings

EPA has complied with Executive Order 12630 (53 FR 8859, March 18, 1988) by examining the takings implications of the rule in accordance with the Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings issued under the executive order.

12. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations

Because this rule proposes authorization of pre-existing state rules and imposes no additional requirements beyond those imposed by state law and there are no anticipated significant adverse human health or environmental effects, the rule is not subject to Executive Order 12898 (59 FR 7629, February 16, 1994).

List of Subjects in 40 CFR Part 271

Environmental Protection; Administrative Practice and Procedure; Confidential Business Information; Hazardous Materials transportation; Hazardous Waste; Indians-lands; Intergovernmental Relations; Penalties; Reporting, and Recordkeeping requirements.

Authority: This action is issued under the authority of Sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act, as amended, 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: September 19, 2012.

Susan Hedman,
Regional Administrator, Region 5.